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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,269	01/02/2004	Jonathan M. Katz	VIT.P0029	1735

7590 06/09/2005

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT PAPER NUMBER

3752

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/750,269	KATZ ET AL.	
	Examiner	Art Unit	
	Christopher S. Kim	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 12-23, 25-28 and 30-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-23, 25-28 and 30-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The response filed March 31, 2005 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

3. Claims 1, 2, 4, 7, 12, 13, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenkranz (3,006,560).

Rosenkranz discloses a device comprising: a tube 11; a spray head 14; a plunger 32 having a nose 33 and a base 34 having a rim 35; a seal 17; a spring 37.

4. Claims 20, 21, 25, 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Card, Jr. (2,009,575).

Card discloses a device comprising: a tube 31; a spray head 32; a self having at least one rib 34; a plunger 36; a seal 35; a spring 37.

5. Claims 1-4, 7, 10, 13, 14, 20, 21, 25, 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Benson et al. (2,570,909).

Benson discloses a device comprising: a tube 5, 14; a spray head 20; a plunger having a nose 19 and a base 17 having a rim 18; a seal 22; a spring 12; at least one rib 23; a second seal 25, 26.

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6. Claims 1, 2, 10, 12, 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Marty et al. (4,562,960).

Marty discloses a device comprising: a tube 14; a spray head 12; a plunger 70 having a nose 73 and a base 58 having a rim 66; a seal 22; a second seal 49; aperture 38; spray apertures (between vanes 34).

***Claim Rejections - 35 USC § 103***

7. Claims 5, 6, 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenkranz (3,006,560) in view of Schwaderer et al. (5,238,221).

Rosenkranz discloses the limitations of the claimed invention with the exception of the device at the other end of the hose. Schwaderer discloses a device having a button 31, valve 13 and spring 17. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the device of Schwaderer to the hose of Rosenkranz for plug in coupling.

8. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marty et al. (4,562,960).

Marty discloses the limitations of the claimed invention with the exception of the nose being received over the stem. Marty discloses a one piece nose 73 and stem 70. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a nose over the stem in the device of Marty for assembly/disassembly, since it has been held that constructing a formerly integral

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structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

9. Claims 20, 21, 25, 26, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenkranz (3,006,560) in view of Neuner (6,341,706).

Rosenkranz discloses the limitations of the claimed invention with the exception of the at least one rib. Neuner discloses a rib 62 to improve the seal between surface 64 and surface 11. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a rib on the shelf of Rosenkranz as taught by Neuner to improve the seal (Neuner, column 8, lines 9-12).

10. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Card, Jr. (2,009,575) in view of Schwaderer et al. (5,238,221).

Card discloses the limitations of the claimed invention with the exception of the device at the other end of the hose. Schwaderer discloses a device having a button 31, valve 13 and spring 17. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the device of Schwaderer to the hose of Card for plug in coupling.

11. Claims 28, 30-33, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilmour (2,536,167) in view of Schwaderer et al. (5,238,221).

Gilmour discloses the limitations of the claimed invention with the exception of the connecting device. Schwaderer discloses a connecting device having a button 31, valve 13 and spring 17. It would have been obvious to a person having ordinary skill in

the art at the time of the invention to have provided the connecting device of Schwaderer to the hose of Gilmour for plug in coupling.

12. Claims 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vita-Mix Corporation (IDS, Other Document #2) in view of Schwaderer et al. (5,238,221).

Vita-Mix Corporation discloses the limitations of the claimed invention with the exception of the connecting device. Schwaderer discloses a connecting device having a button 31, valve 13 and spring 17. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the connecting device of Schwaderer to the hose of Vita-Mix Corporation for plug in coupling.

### ***Response to Arguments***


13. Applicant's arguments with respect to claims 1-10, 12-23, 25-28 and 30-36 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher S. Kim  
Primary Examiner  
Art Unit 3752

CK